



State of Washington
DRAFT
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Change Place of Use

PRIORITY DATE
June 19, 1969

WATER RIGHT NUMBER
G3-01174C(B), together with ROD dated 11/23/2009
and ROE dated 10/16/2009

MAILING ADDRESS
WA Natural Resources Department - ERO
713 Bowers Road
Ellensburg, WA 98926

SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
740	GPM	166.42

Purpose

PURPOSE	WITHDRAWAL RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON- ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Irrigation	740		GPM	166.42		2/1 - 12/1

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS
150			

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Ground Water		32-Walla Walla

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Well	370817140001	AAM-452	8 N.	37 E.	17	NE¼SE¼	46.1729	118.2014
								Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)
370816210002, 370816420003

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

The W½ and the SW¼NE¼ of Section 16 and 5.3 acres within the W½NW¼SE¼ of Section 16
All within T. 8 N., R. 37 E.W.M.

Development Schedule

BEGIN PROJECT

Started

COMPLETE PROJECT

Completed

PUT WATER TO FULL USE

In use

Measurement of Water Use

How often must water use be measured?

Weekly

How often must water use data be reported to Ecology?

Annually (Jan 31)

What volume should be reported?

Total Annual Volume

What rate should be reported?

Annual Peak Rate of Withdrawal (gpm)

Provisions

Ground Water Certificate No. 4631(C) together with Record of Decision (ROD) dated 5/17/2005 and Report of Examination (ROE) dated 4/19/2005 and G3-01174C(B) together with ROD dated 11/23/2009 and ROE dated 10/16/2009 shall not exceed 990 gallons per minute, 286.42 acre-feet per year for the seasonal irrigation of 250 acres.

Wells, Well Logs and Well Construction Standards

All wells constructed in the state must meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard must be decommissioned.

All wells must be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag must remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Eastern Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Eastern Regional Office for forms to submit your water use data.

Easement and Right-of-Way

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for change to Ground Water Certificate No. G3-01174(B), subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this day of 2016.

Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Dan Tolleson, Department of Ecology

Water Right Control Number CG3-01174C@2

Certificate No. G3-01174(B), together with ROD dated 11/23/2009 and ROE dated 10/16/2009

WA Natural Resources Department

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CG3-01174C@2, under Ground Water Certificate No. G3-01174(B), together with ROD dated 11/23/2009 and ROE dated 10/16/2009.

EXISTING Water Right Attributes

Water Right Owner:	WA Natural Resources Department
Priority Date:	June 19, 1969
Place of Use	W½ and the SW¼NE¼ of Section 16, T. 8 N., R. 37 E.W.M.

County	Waterbody	Tributary To	WRIA
Walla Walla	Ground Water		32-Walla Walla

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation of 150 acres	740	GPM	166.42	02/01	12/01

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well	370817140001	AAM-452	8 N.	37 E.	17	NE¼SE¼	46.1729	118.2014

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	WA Natural Resources Department - ERO
Date of Application:	January 16, 2015
Place of Use	W½ and the SW¼NE¼ of Section 16 and 5.3 acres within NW¼SE¼ of Section 16, all within T. 8 N., R. 37 E.W.M.

County	Waterbody	Tributary To	WRIA
Walla Walla	Ground Water		32-Walla Walla

Purpose	Rate	Unit	Acre-feet/yr	Begin Season	End Season
Irrigation of 150 acres	740	GPM	166.42	02/01	12/01

Source Name	Parcel	Well Tag	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Well	370817140001	AAM-452	8 N.	37 E.	17	NE¼SE¼	46.1729	118.2014

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed change.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Walla Walla Union-Bulletin on March 4, and 11, 2015. No protests were received regarding this notice.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

RCW 90.44.100 allows Ecology to amend a ground water permit to (1) allow the user to construct a replacement or additional well at a new location outside of the location of the original well, or to (2) change the manner or place of use of the water, if:

- (a) The additional or replacement well taps the same body of public ground water as the original well. RCW 90.44.100(2)(a),
- (b) Where a replacement well is approved, the user must discontinue use of the original well and properly decommission the original well. RCW 90.44.100(2)(b),
- (c) Where an additional well is constructed, the user may continue to use the original well, but the combined total withdrawal from all wells shall not enlarge the right conveyed by the original permit or certificate. RCW 90.44.100(2)(c),
- (d) Other existing rights shall not be impaired. RCW 90.44.100(2)(d).

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, permits and claims; (3) USGS topographic maps, and aerial photographs; (4) authorized point of withdrawal; (5) authorized and proposed places of use; (6) Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32 and Watershed Planning; (7) State of Washington Irrigation Guide (Natural Resources Conservation Service 1997); and (8) discussions with Department of Ecology regional program staff.

A field investigation was conducted by Dan Tolleson with Dean Derby, who leases this water right on October 27, 2015. The project is located approximately 2½ miles northwesterly of Dixie, Washington. The water right is located in the Walla Walla Basin, which is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The authorized place of use is approximately 360 acres of land lying within the western portion of Section 16, T. 8 N., R. 37 E.W.M. The terrain of this project is generally rolling, with a seasonal creek which is a tributary of Dry Creek, running from east to west through the project. The project has irrigated vineyards strategically placed within the parcel, with dryland crops located within the majority of the remaining area. The vineyards are irrigated with a drip irrigation system.

The proposed additional place of use is a 5.3 acre parcel located within the NW¼SE¼ of Section 16, T. 8 N., R. 37 E.W.M. This parcel of land is described under an agreement between DNR and the land owner. According to DNR and the agreement, water used under this right on the aforementioned land is owned by DNR. This parcel of land is now an irrigated vineyard being part of a larger irrigated field. As with the rest of the vineyard the irrigation system consists of a drip irrigation system.

The authorized point of withdrawal is a well located on lands owned by Dean Derby within the NE¼NE¼SE¼ of Section 17, 16, T. 8 N., R. 37 E.W.M. The system currently consists of a 200 horsepower variable frequency drive turbine pump with a flow meter. Water is pumped into a lined pond that is redistributed by a 30 horsepower variable frequency drive pump to the irrigation system.

History of Water Use

Ground Water Certificate No. G3-01174C was issued in 1974 for the irrigation of 80 acres on a parcel of land just to the west of the Town of College Place, Washington. In 2009, a change application was approved by the Walla Walla Conservancy Board and affirmed by Ecology. The water right was split into two portions, with the "B" part moved to the DNR lands described under this project. In addition, irrigation was spread to cover 150 acres of land.

A determination of the extent and validity of this right was conducted as part of the 2009 change decision. Aerial photographs were used to help verify the extent of development and beneficial use of this water right, since the change was approved. In accordance with the development schedule, they have incrementally developed vineyards to the authorized maximum of 150 acres. During the 2015 irrigation season the entire water right was put to beneficial use.

The maximum instantaneous quantities authorized under this water right are 740 gallons per minute. The existing system, which utilizes a variable frequency pump, is estimated to produce a maximum of 1,150 gallons per minute. Given the capacity of the pump and the design of the system, it appears that full instantaneous quantities have been put to beneficial use under this right. Since this well supplies multiple water rights, water withdrawals will need to be coordinated so it does not exceed the quantities authorized under each right. Water use beyond what is authorized may result in fines.

The maximum authorized water duty of this certificate is 1.11 acre-feet per year, per acre. In recent years, this right has been used to irrigate grapes within a vineyard. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that 2.1 acre-feet, per acre, for grapes is required in the Walla Walla area. The irrigation system consists of a drip system which is estimated to have an 85% efficiency rate of the application. At this efficiency rate, the maximum water duty for crops listed above is 2.45 acre-feet per year, per acre. Wine grapes typically use less water than regular grapes, therefore the authorized water duty appears to be adequate in normal years. However, the small water duty authorized under this right may not be sufficient in dry years. The maximum authorized allocation of this right is 166.42 acre-feet per year for the irrigation of 150 acres. Water use beyond what is authorized may result in fines.

Proposed Use

The applicant proposes to add a 5.3 acre parcel of land to the place of use. This additional land will correct the place of use to what is actually irrigated. The authorized well will be retained, so no hydrogeologic analysis will be conducted for this report.

Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water rights, permits, and claims in the area of the project. The search focused primarily on Sections 16 and 17 of T. 8 N., R. 37 E.W.M. The review shows one water right certificate appurtenant to the place of use, which is as follows:

Ground Water Certificate No. 4631(C) together with ROD dated 5/17/2005 authorizes 250 gallons per minute, 120 acre-feet for the seasonal irrigation of 100 acres. This is a primary additive water right that is currently utilized for irrigation of a vineyard.

Impairment Considerations

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, not including earlier filed applications , and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule, and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150).

The applicant’s proposed change in place of use will not enlarge the quantity of water historically authorized, nor will it impair existing rights. The existing authorized well is proposed to be retained unchanged, meaning there will be no change in pumping rates or water use. There has been no documented history of pumping interference problems between existing wells in this area. It is not anticipated that the proposed change would cause any impairment to existing water rights.

Public Interest Considerations

There has been no public expression of protest or concern regarding this specific proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed change.

Conclusions

In accordance with Chapters 90.03 and 90.44, approval of this application to change the place of use as granted under Ground Water Certificate No. G3-01174C(B), together with ROD dated 11/23/2009 and ROE dated 10/16/2009 will not enlarge the quantity of water authorized, nor will it impair existing rights or be detrimental to the public welfare provided the terms and conditions above are followed.

The amount of water recommended is a maximum limit that shall not be exceeded, and the water user may only use that amount of water within the specified limit that is reasonable and beneficial. This authorization does not increase in any way the original amounts authorized.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 740 gpm, 166.42 acre-feet per year for the irrigation of 150 acres

Point of Withdrawal

- NE¼SE¼ of Section 17, Township 8 North, Range 37 E.W.M.

Place of Use

- As described on Page 1 of this Report of Examination

Dan Tolleson, Report Writer

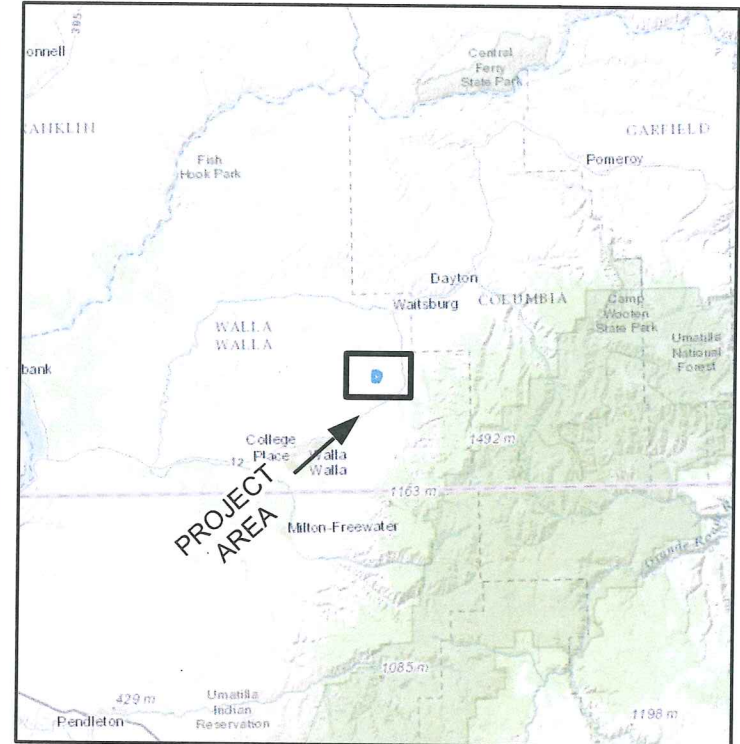
Date

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.



WA Natural Resources Department
G3-01174(B), together with ROD dated
11/23/2009 and ROE dated 10/16/2009

T07N/R35E



Basemap - (ESRI US Topographic Maps)

Legend



Authorized Place of Use

Townships

Sections

Authorized Point of Withdrawal

(Source locations may vary in their accuracy and precision as stated within the body of the report.)

0 2,640 5,280 10,560 Feet
Basemap - (NAIP 2013 1m color)

Map Date: 1/26/2016



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.